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BEFORE THE ARIZONA CORPORATION COMMISSION

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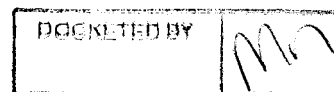
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Arizona Corporation Commission

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SEP 10 2009



Docket No. L-00000F-09-0190-00144

Case No. 144

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SEP 8 2009

ARIZONA CORP. COMM  
400 W CONGRESS STE 218 TUCSON AZ 85701

COMMISSIONERS

KRISTIN K. MAYES, Chairman

GARY PIERCE

SANDRA D. KENNEDY

PAUL NEWMAN

BOB STUMP

IN THE MATTER OF THE APPLICATION OF UNS  
ELECTRIC, INC. FOR A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY FOR THE  
VAIL TO VALENCIA 115 KV TO 138 KV  
TRANSMISSION LINE UPGRADE PROJECT,  
ORIGINATING AT THE EXISTING VAIL  
SUBSTATION IN SEC. 4, T.16S., R.15E., PIMA  
COUNTY, TO THE EXISTING VALENCIA  
SUBSTATION IN SEC. 5, T.24S., R.14E., IN THE  
CITY OF NOGALES, SANTA CRUZ COUNTY,  
ARIZONA.

Notice of Filings of

BRIEF

AND REQUEST FOR EXCEPTIONS TO THE  
CERTIFICATION OF ENVIRONMENTAL COMPATIBILITY IN ARIZONA POWER PLANT AND  
TRANSMISSION LINE SITING CASE NO. 144

8 September 2009

This filing consists of the Brief requested in an ACC procedural order dated August 12<sup>th</sup> 2009 for review  
of the Certification of Environmental Compatibility (CEC) and X Exceptions for consideration by the  
Commission.

These exceptions request to:

1. Find that the inclusion in this CEC of a Citizens' Advisory Council is in the best interest of the public while providing for an adequate, economical and reliable power with the desire to minimize the effect on the environment and ecology of the state
2. Ensure that the most visibly impacted are notified of and are able to respond to the Pole Finish Plan required by the CEC.
3. Add the word Archaeologist to the CEC.
4. Ensure that the same environmental protections given to the new and upgraded transmission line are afforded to the previously constructed portion of the line.
5. Add three organizations who will receive a copy of the CEC.
6. Assure that signs notifying the public about the project construction are of a standardized size.

Mailed to all parties and dated this 8th day of September 2009.

Respectfully submitted,



Elizabeth Buchroeder-Webb

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**1. Background.**

The Vail to Valencia 115kV to 138 kV Transmission Line Upgrade Project ("Project") upgrades the existing line that serves Santa Cruz County customers of UNS Electric, Inc. ("UNS Electric"). (*Taken from UNS Exhibit 1 Application-Introduction-Page 1*)

**2. Introduction**

My name is Elizabeth Webb and I live with my family in the Empire Mountains rural Vail, AZ., Pima County Supervisorial District 4 . Here is what District 4 Supervisor Ray Carroll wrote in a letter of reference to Chairman Foreman. *"Elizabeth has the ability to work with persons from diverse backgrounds and groups with various agendas to form effective cooperative relationships. She is active in environmental, education, human rights and community preservation issues."*

I intervened in this case after much contemplation and after I visited the site of the proposed project on the northern end in Segment 1. I was chagrined to find out that information presented at 2 Open Houses and one Community meeting in Tubac was missing vital components. I was scared to intervene after participating in LS Case 137. Although the outcome went well, the cost (financially, emotionally and physically) was extraordinary. Working a full time job and then devoting the rest of the day to the project took a physical toll as well. I spent approximately \$600.000 in LS Case 137 and have spent approximately \$1000.00 in LS Case 144. A community volunteer has donated approximately \$500.00 worth of office supplies this go round. After becoming immersed in the project it is hard to quit after a large outlay of resources.

The "utility underground" is quite interesting. During LS Case 137 after belaboring its "environment plight" to a state official suggested that I contact an individual who had previously intervened in a case before the Line Siting Committee. Although that individual must remain anonymous as the case caused loss of a job, the individual became my one of my mentors. Marshall Magruder became the other. The cycle of the "utility underground" continued when I was contacted by a member of the public regarding an upcoming TEP case. I was found on the internet. I only hope that any words I can offer will be half as helpful as what I received in LS Case 137.

Why do I bring this up now?

**One** is in hopes that my experiences will help incur change for future interveners. Perhaps the Commission and ACC Staff aware of these experiences or the costs associated.

**Two** is to acknowledge the wisdom and experience shown by Chairman Foreman during LS Case 144. He is strict and I may not always agree with some opinions outside of procedural issues, but he is fair and was incredibly tolerant while explaining procedure prior to and during the hearing. I am used to a more informal way of dealing with Government agencies in my area. Furthermore and most important to me is the dignity and respect Chairman Foreman showed members of the public who wished to express their opinions-even after the formal allotted time slots for public comment had expired. It takes a lot of courage to speak publicly in front of body such as the Line Siting Committee. As shown in **Exhibit EW-4**, public voice is extremely vital to me. *"At this point it is about having a voice and having adequate information in order to formulate questions and comments. How can people make comments if they don't have information to make comments on?" (Exhibit EW-A – Arizona Daily Star April 3 2008)*

**Three** is to acknowledge the courtesy shown by the Committee Members in LS Case 144. Again, I might not agree with the opinions of the Committee on every issue, but the members were professional during the hearing.

2 **Four** is to acknowledge that the applicant provided both Mr. Magruder and me our own tables for the hearing  
3 which was extremely helpful. The applicant also promptly assured the transcripts were available for viewing at  
4 the closest public library. The applicant also took into consideration health issues related to only providing  
5 sweet snacks and provided alternative choices. This may seem minor but it is extremely important when one sits  
6 at a hearing all day. According to a letter submitted to Docket Control by Reta LaFord, deputy director of the  
7 Coronado National Forest,

8 **Four** is to show the enormous costs to people who by and large just want to help their Community. I am not an  
9 attorney. What I am is a **taxpayer, ratepayer, volunteer and member of a Community that will be directly**  
10 and indirectly impacted by these projects.

11 **Five** is to show that some issues are quite solvable **BEFORE** the hearing, requiring less financial cost to the  
12 Intervener, the Applicant (by extension the ratepayers) and the State of Arizona. That being said, it is important  
13 to note that I believe individuals who wish to intervene as allowed by law or policy should have that right.  
14 The issues I observed in Intervener Magruder's Request for Review are simply an alternative which would be  
15 more ecologically beneficial while minimizing the impact on the Environment and Pole Finish, something that  
16 should be included in the application prior to filing for the CEC.

17 I observed during the proceedings as many members of the "contentious area" in the Mesquite Bosque in  
18 Segment 2 spoke during the public comment portion of the hearing regarding their concern about outreach by  
19 the Company. (TR63:14-23) It was apparent that the Company had not reached consensus among the property  
20 owners whose property would be potentially split by this project. A similar situation occurred in Case 137 when  
21 there was no Open House and issues in letters written by the neighborhoods and myself prior to the hearing  
22 were not adequately resolved. One alternative in the future is to do what I observed in the City of Tucson  
23 hearings. That is to tell the Applicant to work with the public and then come back when issues are resolved.  
24 This saves time and resources.

25 In LS Case 144, the community impacted in the Mesquite Bosque offered a reasonable solution but it took up  
26 time during the hearing and by extension, cost for all involved. The amount of resources spent on trying to reach  
27 agreement about an area that affected 27 property owners in less than a 2 mile stretch in a 50 mile long project  
was much more than it should have been. As per the Chairman's instructions (transcript # X), it required a trip  
on my part, independent of the hearings to Nogales, Arizona to meet with the Nogales Flood Control District  
and loss of time during my testimony as I gave my opinion about an area that I had not previously considered  
and had very limited knowledge about. The Flood Control District should have been contacted prior to the filing  
of the application. There should have been consensus between the Company and neighbors prior to filing the  
application. I am not resentful as I have association with Santa Cruz County but I could not do justice for my  
case at the Northern end of the project in Segment 1.

Additionally, we should not be scrambling to come up with alternatives during the hearing when they could  
have been discussed **prior** to filing the application. **When the public makes comments, it would helpful if**  
**the Company listened rather than placated.**

Observations about the pole finish issue will be discussed during my rationale for Exception 2. Suffice to say,  
this is not a new, unexpected issue between the Company, myself and the impacted Communities.

**Six** is to speak of the physical toll working a "real" job and other important volunteer activities and working on  
these cases. In LS Case 144, another community volunteer helped with the collating and printing after working  
her "real job" (often we worked on this collating and printing until 2am). Lack of sleep makes it almost  
impossible to make a coherent presentation while testifying and presenting evidence.

2 I speak of these things because it is important for the Commission and ACC Staff know what ratepayers,  
3 taxpayers and volunteers experience when intervening. I do this because I believe my Community needs a voice.  
4 I do not receive compensation for my time. Mr. Magruder testified that he does not receive compensation either.  
5 (TR532:12-16) My fear is that I will no longer be able to intervene in upcoming cases, of which there are many  
6 proposed in my Community (exhibit X) due to the cost associated with intervening. My family comes first, but  
7 the choice is devastating. Transmission siting is not a heavily involved Community arena. If we do not intervene  
8 in Line Siting cases, who from the Community will? At a minimum, the ACC Staff should intervene in cases  
9 where there is any associated controversy.

### 3. Areas of Concern

#### a. Exception One:

8 During the hearing for LS Case 144 I presented evidence and evidence was obtained via Data Requests and  
9 cross examination of witnesses to show that upfront and aggressive outreach was not performed as per the  
10 suggestion of Chairman (then Commissioner) Mayes in August of 2008. In my Request for Review, I listed  
11 much of the evidence which shows that the establishment of a mandated Citizens Advisory Council as part of  
12 this CEC would be in the broad public interest and that of the environment and ecology of the State of  
13 Arizona. I have listed that evidence again below in my Brief. The Company is already engaged in regional  
14 transmission planning with the Southeast Arizona Transmission Study group but an important component is  
15 missing-the public who would be directly and indirectly impacted by these projects. The CAC would give  
16 the public an opportunity to have a meaningful proactive role and help save on costs associated with the Line  
17 Siting hearings.

18 Although the Committee may do a fine job while siting specific cases, the preferred alignment and  
19 alternatives have already been selected by the Applicant and the Committee sites on a case by case basis.

20 The SATS group is now part of the Arizona Corporation Commission's Biannual Transmission Assessment  
21 and it makes sense to include the third arm of neighborhood and regional transmission planning. The  
22 Company may argue that FERC order 890 fulfills this need but the Order is in reference to Extra High  
23 Voltage planning, is statewide and does not meet the needs of the public in Southeastern Arizona. As shown  
24 by the evidence, by choosing to install a 345 shared cost transformer as part of the project, the Company  
25 elected to be associated with regional and neighborhood planning.

26 Testimony by Ed Back (TR:443:8-15): *The concept is that we are putting a 345kV to 138 transformer. It is  
27 good for 672 megawatts of capacity. We are looking for approximately 120 of that to be allocated to UNS  
Electric, and therefore these is a pro rata percentage cost of the cost of the transformer that is assigned to  
TEP and it provides for FUTURE capacity needs for the TEP load area".*

28 Testimony by Ed Beck (TR:447:22-25) *That's why TEP is paying for a portion of the transformer, to  
29 increase its capacity into the FUTURE and UNS Electric is picking up a portion to cover its needs into the  
30 future.*

31 The Company might argue as was argued at the hearing (TR445:15-16) that there is not a permitting  
32 requirement for the installation of the transformer but it did acknowledge that the transformer is part of the  
33 application (TR445:21-23). There is no doubt that the vast majority of resources associated with the  
34 transformer will be used by a company different from applicant.

#### Calculations:

120/672 transformer cost split = 17.88% for UNS Electric and 82.12% for TEP

or

if 17.88% = \$1.5M for UNS Electric (TR4224-5)

then

cost for Total Cost =  $1.5M / 0.1788 = \$8.389M$

TEP transformer cost =  $0.8212 \times \$8.380M = \$6.889M$

The Company has shown that after being give a chance by the Commission to involve the public in a meaningful manner on its own it chose not to do so, primarily in Segment 1A. Now is the time to include the partnership of the ACC. Additionally, as a member of the newly formed Rosemont Copper Project stakeholder's group I see things heading in the same direction of excluding Communities from appropriate public outreach. There was only one Public Open House in Phase 2 of public comment for proposed nodes and links Rosemont Copper Project and it was held 60 miles round trip from my neighborhood, contrary to the suggestions of some relevant members of the group.

I believe Stakeholder groups are vital in developing details specifically related to each previously planned project but do not solve the problem of involving the impacted Communities in long term neighborhood and regional transmission line planning.

Understanding that the Committee might have felt constrained by the Applicant's attorney's legal opinion that it did not have to authority to insert such a condition (TR870:22-25 and TR871-1), relevant Arizona Revised Statutes to support Exception One are as follows:

*Arizona Revised Statutes*

*40-360.06. Factors to be considered in issuing a certificate of environmental compatibility*

*A. The committee may approve or deny an application and may impose reasonable conditions upon the issuance of a certificate of environmental compatibility and in so doing shall consider the following factors as a basis for its action with respect to the suitability of either plant or transmission line siting plans:*

*1. Existing plans of the state, local government and private entities for other developments at or in the vicinity of the proposed site.*

Clearly, the evidence shows there is a large number of existing plans for development by private entities in the vicinity of the proposed site- (Exhibit EW-7) and (Exhibit EW-11) and testimony by Mr. Ed Beck regarding the City of Tucson permit for a turbine peaker plant on the Vail Substation land. (TR 430:1-5). A Citizens Advisory Council with specific local knowledge of environmental, historic, prehistoric, cultural and recreational issues is a reasonable condition to avoid future costs to the ratepayers and impacted communities during the hearings.

The authority would lay with the ACC not the CAC. The CAC is an opportunity to involve a segment in preliminary transmission line planning that up to now has not been included on a neighborhood or regionally

scale. Mr. Beck testified that the installation at the Vail Substation will allow for any future renewable projects associated with UNS Electric. (TR102:22-24) This shows the intent of the Applicant to become in future projects associated with this application.

The application has a budget allocation of 5.1 million for environmental cost which includes public outreach that excluded the Vail/Corona/Rita Ranch areas. To date 3.1 million has been spent (TR421:1-2) so there are resources available. Additionally, the cost of the CAC could be shared with UNS Electric and TEP. It is a low investment for the potential return.

#### **6. The total environment of the area.**

Total environment includes the human environment. It also includes cumulative impacts associated with future projects in the vicinity of and associated with this project. As I testified (TR:925:6-8) that the statutes do not prohibit the consideration of cumulative impacts. It is the prerogative of the Commission to decide whether to consider these impacts.

Definition of cumulative, direct and indirect effects from the Council on Environmental Quality are as follows.

#### **Sec. 1508.7 Cumulative impact.**

*"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.*

#### **Sec. 1508.8 Effects.**

*"Effects" include:*

*(a) Direct effects, which are caused by the action and occur at the same time and place.*

*(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.*

*Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.*

One reasonable way to mitigate or offset the impacts of the future but reasonably foreseeable projects associated with or in the vicinity of the proposed project is the formation of the Citizens' Advisory Council.

*Title 40 Arizona Corporation Commission*

*40-321. Power of commission to determine adequacy of service rendered by public service corporation; enforcement by order or regulation; duty of compliance by corporation; surety; utility surety fund*

*A. When the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or sufficient, and shall enforce its determination by order or regulation.*

*40-322. Regulation of public service corporations; standards of service; measurement standards; inspections by commission*

*A. The commission may:*

*1. Ascertain and set just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished and followed by public service corporations other than a railroad.*

*2. Ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the product, commodity or service furnished by such public service corporation.*

***Arizona Constitution***

*Article 14 Arizona Corporation Commission*

*Section 3. Power of commission as to classifications, rates and charges, rules, contracts, and accounts; local regulation*

*The corporation commission shall have full power to, and shall, prescribe just and reasonable classifications to be used and just and reasonable rates and charges to be made and collected, by public service corporations within the state for service rendered therein, and make reasonable rules, regulations, and orders, by which such corporations shall be governed in the transaction of business within the state, and may prescribe the forms of contracts and the systems of keeping accounts to be used by such corporations in transacting such business, and make and enforce reasonable rules, regulations, and orders for the convenience, comfort, and safety, and the preservation of the health, of the employees and patrons of such corporations; Provided, that incorporated cities and towns may be authorized by law to exercise supervision over public service corporations doing business therein, including the regulation of rates and charges to be made and collected by such corporations; Provided further, that classifications, rates, charges, rules, regulations, orders, and forms or systems prescribed or made by said corporation commission may from time to time be amended or repealed by such commission.*

**From the Arizona Corporation Commission Website:**

<http://www.cc.state.az.us/divisions/utilities/electric/linesiting-faqs.asp>



***Can the Committee impose conditions on a power plant or transmission line approval?***

*Yes. The Committee has fairly broad discretion and can require that a plant or transmission line conform to certain conditions*

***After the Committee approves a plant, can the Commission amend the approval?***

*Within the parameters of the law, the Commission can also amend an application to include conditions it deems necessary for a project to be in the broad public interest*

**4. Evidence presented to support the need for a Citizens' Advisory Council which could include governmental as well as non governmental organizations in my Request for Review along with newly presented evidence obtained from the record.**

a. The use of the word "Upgrade" is very misleading to the public; specifically in the segment known as Segment 1A at the northern end of the project where both the preferred and alternative alignments would involve entirely new construction to change from the existing interconnection at the Nogales Tap to the Vail Substation. Although Mr. Beck testified in response to a question about environmental costs from Mr. Magruder " Well, if this were simply upgrading, that would be high. But I think as we have all seen in this case, this not just a simple upgrade project..." (TR 421:8-11) the newsletters, newspaper ads and agency outreach letters have read such

"UNS Electric, a subsidiary of Unisource Energy Services is planning to upgrade and existing 115kV transmission line to 138kV transmission line (Exhibit UNS-1 J-2 Tribal Mailing List), "Activities required to complete the upgrade would involve only a few changes to the existing transmission line route". (Exhibit UNS-1 Governmental Agency Mailing List J-1), "Unisource Energy Services is planning to upgrade and existing 115kV transmission line to 138kV transmission line between the Vail Substation in Tucson and the Valencia Substation in Nogales" (Exhibit UNS-1 Newsletter Two J-3) and "In order to help meet the growing demand for electricity in Santa Cruz County, Unisource Energy Services is planning to upgrade an existing 115kilovolt (kV) transmission line to 138kV" (Exhibit UNS-1 J-4 Newspaper announcement #1)

b. Lack of aggressive and upfront public outreach to TEP customers and Vail/Corona/Rita Ranch residents by the Applicant-to include the omission of a public meeting in the Vail/Corona/Rita Ranch area. This is after Chairman Mayes directive in Line Site Case 137 Special Open Hearing 8/18/08 Page 262 Lines 8-11 "And I hope that the company has learned a lot. There has to be aggressive, upfront outreach to communities on all of these line siting cases" and Commissioner Mundell "And then I would also say that the public outreach needs to be perfected" (Special Open Hearing 8/18/08 Page 265 Lines 18 & 19) and in regard to renewables "And so having said that, we still need to plan long term" (Check this for accuracy Special Open Hearing 8/18/08 Page 266 Lines 10 & 11). This project application (UNS Exhibit 1) did not acknowledge future planning in the vicinity of the project when providing public outreach.

c. Lack of notification to two communities north of the proposed project-Voyager RV Resort and Trails West - when residences further from the project south of Segment 1A and 1B were sent newsletters. (Exhibit EW-17B) (can be found at docket control <http://images.edocket.azcc.gov/docketpdf/0000099585.pdf>)

d. Exclusion during Agency and Stakeholder meetings of Community Associations registered with Pima County in the direct vicinity and within 2 miles of the area known as Segment 1 A on the northern portion of the project. (Exhibit EW-17A) (Can be found at Docket Control <http://images.edocket.azcc.gov/docketpdf/0000099585.pdf>). Relevant as the Green Valley Community Coordinating Council and the Town of Sahuarita were consulted and neither are in the direct vicinity of the proposed project. The section known as 1B which is somewhat closer to those two communities but is not scheduled for any rebuilding aside from upgrading the voltage on the transmission line. Additionally, Open Houses were held in Green Valley. (Exhibit UNS-1 Application-J-5 Open House #2 Materials and Exhibits & Exhibit UNS-1 Application-J-5 Open House #3 Materials and Exhibits)

2 e. Vague, misleading ads concerning the project in advertised notice of Open Houses that were held in  
3 Tucson instead of the Vail/Corona/Rita Ranch area. (*Exhibit UNS-1 Application-J-5 Open House #2*  
4 *Materials and Exhibits- Newspaper Announcements* & *Exhibit UNS-1 Application-J-5 Open House #3*  
5 *Materials and Exhibits- Newspaper Announcements*). I personally knew of this project because the proposed  
6 Rosemont Copper project has the "Vail to Kantor" line listed as two of its preferred alternatives to receive  
7 power on its website. The Vail to Kantor line did not exist until the Committee granted the CEC. For this  
8 project I attended a meeting in Tubac in Santa Cruz County that is not listed in the application (*Exhibit EW-*  
9 *15 Page 2*) and subsequently attended both of the Tucson Open Houses. If I had depended on the newspaper  
10 to provide accurate information regarding this project I would not have any idea its magnitude as it was  
11 listed as a transmission line "upgrade" in order to help meet the growing demand for electricity in Santa Cruz  
12 County with no mention of TEP's involvement in the purchase of a large transformer needed for this project.  
13 Additionally, it was not until the third newspaper announcement that UNS Electric's website was even listed.  
14 (*Exhibit UNS-1 Application-J-5 Open House #3 Materials and Exhibits- Newspaper Announcements*)

8 f. Lack of documented information regarding the proposed Rosemont Copper Electric project. Mr. Larry  
9 Lucero representative for UNS Electric stated in his public outreach meeting on April 21<sup>st</sup> 2008 that  
10 questions regarding the Rosemont Copper project could be answered at the Line Siting Hearing. (*Exhibit*  
11 *EW- 15 P. 2*). Given the large number of docketed public comments regarding concern about Rosemont  
12 Copper and the "Vail to Kantor" line, why didn't the Applicant address this issue or enter into evidence a  
13 potential exhibit it had prepared?

12 g. Lack of appropriate outreach to governmental agencies involved or to be involved in the project (*Exhibit*  
13 *UNS 1Application- Exhibit J-2*). The Bureau of Land Management was excluded from the Agency Outreach  
14 letters even though according to the Applicant in the Application (*Exhibit UNS 1Application Introduction*  
15 *Page 19*)

15 "If the Preferred Alignment (North Route) in Segment 1A is approved in a CEC, UNS Electric will pursue  
16 an authorization across the BLM parcel along Wilmot Rd."

16 This lack of appropriate outreach caused additional delay and increased costs during the hearing. This is the  
17 second time when applying for a CEC in my Community where the Applicant did not interact in an upfront  
18 manner with the governmental organizations that would have significant impacts on potential issues related  
19 to this project. The first was in LS Case 137 when the County was not contacted. "But TEP never saw fit to  
20 take the load saturation to the county and present it to them before it went into the hearing. In fact, the  
21 county became aware of it, as I understand it, after it had been brought to the hearing as a hearing exhibit."  
22 (8/18/08)Special Open Hearing-Page 190-Lines 15-19

21 h. Delayed, incomplete and vague responses involving data requests during discovery. I was not the only one  
22 who had difficulties with inaccurate or incomplete data responses. I watched in dismay as Mr. Magruder  
23 used an obsolete report provided to him by UNS Electric in one of its data responses.

23 Question during cross-examination by Mr. Magruder of Mr. Beck: "What is the status of the Pantano 220  
24 kilovolt tie-in?"

24 Mr. Beck: "It has been canceled"

25 Mr. Magruder: When was it canceled?

26 Mr. Beck: in the latest Southwest Transcon ten-year plan it shows it as cancelled".

Mr. Magruder: When I asked for data questions to find out information, this is what you sent to me. Did you also send me something to indicate that this report was in error and its key elements in that report had been cancelled?

Mr. Beck: Well, the report is not in error. It was based on a plan a the time. No, I didn't specifically report and go in and say oh, by the way, we realized this was canceled." (TR:358:17-25) and (TR359:1-6)

This inadequate outreach to governmental agencies and incomplete/inaccurate data responses prior to and during the hearings caused an additional \$40.00 -\$50.00 in printing/mailling and several hours of time for one exhibit alone. (Exhibit EW-18 a-f). This does not include the extra time and money spent on other data responses that were incomplete or on a large black and white map copied from a misrepresented color one used when UNS Electric visited flood control direct John Hays on June 10<sup>th</sup> 2009 . (Exhibit EW-19L)

i. Significantly changing proposed routes within the 500' corridor during rebuttal testimony without notifying private property owners who would be directly impacted. The centerline of the corridor alignment in the segment on the northern end of the project on the signed CEC is a point in the Nogales Tap on the east side of Wilmot Rd. According to testimony by Mr. Ed Beck of UNS Electric/TEP, the proposed alternative that would be presented to the Bureau of Land Management is approximately 150 feet or more to the west of the corridor centerline. (Pima County GIS maps)

j. According to testimony by Mr. Ed Beck of UNS Electric/TEP, the proposed alternative that would be presented to the Bureau of Land Management as an alternative route to avoid crossing federal land (TR749-14-20) and is a approximately a minimum of 150 feet to the west of the corridor centerline as written in the CEC. (Pima County GIS Maps) According to testimony on July 8<sup>th</sup> 2009 by Mr. Beck the owners of the property to the west of Wilmot had not been contacted regarding this change prior to his rebuttal testimony. (TR 849: 12-17)

A representative for the property owner to the west had previously written a letter to the Applicant dated August 06, 2007 stating "Of specific concern is the fact that the proposed preferred alignment runs south along Wilmot Rd. adjacent to Section 12 of our Verano master planned community. It is IMPERATIVE that this easement be set back a sufficient distance EAST of the ultimate Wilmot Road configuration. While it is not our preferred option to have this power line run adjacent and the viewsheds of our two residential projects, we understand the rationale present by TEP, and are not opposed, subject to addressing our Wilmot concerns". (Exhibit UNS-1 Exhibit J-8 public responses)

Additionally, as an intervener, Mr. Beck's testimony on July 8<sup>th</sup> was not the response I received on my Data Response dated 12 June 2009 (Exhibit EW-18E) when I inquired about alternatives that would be presented to BLM if the preferred alignment was chosen in Section 1A. The response I receive involved a "no action alternative" and the original alignment. If both sides of Wilmot road are considered the same alignment within the CEC due to the corridor width then west of Wilmot Rd it should not be allowed as an "alternate alignment" to present to BLM. The first I heard of this alternative on the west side of Wilmot Rd. was at the second set of hearings on July 8<sup>th</sup> and 9<sup>th</sup> 2009. It was not included in Mr. Beck's pre-filed rebuttal testimony and came as a complete surprise to me on July 8<sup>th</sup> 2009. This was not the only pertinent information on this subject that was not disclosed to me prior to Mr. Beck's rebuttal testimony.

k. Lack of a field trip to the Northern portion of the project known as Segment 1 by the Committee. This is particularly worrisome as Section 1A is the only portion where there is true new construction. It is an area that already suffers visual blight from cor-ten monopoles and steel lattice structures. The majority of viewers impacted in this area travel along I-10.

It is also an area where the upgrade performed from Decision 56097 did not have the same modern environmental considerations as more recent CECs. Multiple access/construction roads exist creating an opportunity for OHV use. According to Mr. Ed Beck during cross examination after his rebuttal testimony on July 8<sup>th</sup> 2009 the Applicant cannot be responsible for wildcat roads. (TR:841:22-23)

Big concern here. If the Company will not acknowledge it has responsibility for its OWN construction and access roads along existing transmission line routes, how can we be assured that it will mitigate any new construction? The applicant applied for a CEC to upgrade the voltage on the transmission line in Segment 1B where it was rebuilt after the 1988 Decision-not just the segments north and south of the area known as Segment 1B. (*Exhibit UNS-1 Application, Introduction, Page I, Paragraph 1*)

Furthermore, although the application states that there will be no work on the previously constructed portion of the line Mr. Maguder asked in his exhibit MM-19 data request 2-16 "*Will the upgraded 138 kV transmission line include a fiber optics capability?*"

1. How will this fiber optic cable be installed in the previously constructed portion granted by Decision 56097? If a line capable of supporting new internal fiber optic is installed the construction will certainly have environmental impacts on the Segment 1B unless the company intends to use helicopters.
2. Does the existing 115K line which is capable of 138K have an internal fiber optic line the customers have been paying for but unable to use since the "new" line was constructed?
3. Does the Company intend to install the internal fiber optic line only on the "new" construction and wait until some time in the future to complete the pathway?

Additionally, according to the Applicant (TR:443:8-15), Tucson Electric Power is going to hold responsibility for the majority of the cost for the 345kVa transformer needed at the Vail Substation for this project. This was not disclosed to the public prior to the hearings and I had not heard of it myself until Mr. Beck of UNS Electric/TEP described it in his direct testimony and during my cross examination during the first set of hearings. This places any new projects associated with the new transformer at the Vail Substation well within the realm of responsibility of the Committee and the Commission in Line Site Case 144. For UNS Electric/TEP to exclude this information when doing public outreach is another example of unreliable practices. On a broad scale our Community will have more cumulative environmental and ecological impacts associated with this project it than any another other-given the future and foreseeable projected projects associated with the Vail Substation.

l. The vast number of developments by private entities in the vicinity of the project. UNS Electric applied for this CEC. There were seventeen associated with the Vail Substation in the next 25 years-14 of them exclusive TEP projects. These are noted in my supplemental Data Response (*Exhibit EW-7*) from Mr. Ed Beck when it was supplemented after the first data response was inaccurate. Unfortunately, this data response was inaccurate also. The Tortolita to Vail Substation 345kVa line listed in the 2008 BTA was excluded. In addition to the projects associated with the Vail Substation, SWTC-Trico has plans for a new substation in New Tucson-to the east of this project but within the Community boundaries of the Vail School District. (*Exhibit EW-12*) TEP has the proposed Rosemont Copper Mine Electric project in the stakeholder processes and it is in the immediate vicinity of this project. Excluding any potential renewable projects as mentioned by Mr. Ed Beck during the first three days of the hearing and entered as Exhibit EW-11 and Exhibit EW 16 associated with the Vail or South Substation there are currently nineteen (19) projects planned that would impact our community in the next twenty five (25) years. Our community has an approximate population of 45 thousand residents of which a large percentage is served by SWTC-Trico and not TEP. (*Exhibit EW-17C1 and C2*)

m. Additionally, the details presented to the Committee regarding environmental impacts, need and electrical engineering are gathered by an advocate for the Applicant along with employees of the Company. There is

no independent verification by staff or an outside party unless someone intervenes. Assumptions by the Committee and Staff (when it intervenes) are based solely on information provided by the Company which has an economic interest to see the project permitted the way the Company wants it done. As shown in the application, Agency Outreach Letters can be left out of the process, thereby excluding important data that would be relevant to the Committee for route alternatives selection. In LS Case 144, one of the few Agencies (BLM) that might have a regulatory authority was not sent an outreach letter with the accompanying map that was sent to agencies that do not have regulatory authority over the transmission line siting process (TR961:16-19).

Moreover, it has been very confusing throughout the hearings to determine what company has responsibility over the project. The application name is listed as UNS Electric but the newsletters have the Company listed as Unisource Energy Services which is actually a the holder of two subsidiary utility companies-UNS Electric and UNS Gas.

On our field trip of the southern route it became even more confusing as the Sonoita Substation (located in Rio Rico, Santa Cruz County) has a sign on it that says "Sonoita Substation, Tucson Electric Power" (Exhibit EW-14) When you throw in the shared cost of the 345K transformer with TEP, it sure sounds like this might be a multi-utility project.

n. Public Comment. There are several docketed public comments representing hundreds of families at Docket Control regarding this issue and others. During the hearing after the comments were not accepted as one of my exhibits due to legal language, I inquired to Chairman Foreman if I could still use the comments in my request for review. His answer was *"If you would like to make that part of your request for review, that would, assuming you file a request for review, that would be great. And if you could get the Corporation Commission to articulate on the record what it wants done with public comment, that would be even better."* (TR648:5-10)

o. As shown by Exhibit EW- 19I, the creation of a CEC would avoid having to come back to the Commission for a modification of the CEC as happened in LS Case 137 where the substation is not in the corridor approved by the Commission at the August 18<sup>th</sup> 2008 Special Open Hearin..

**5. Objective of Exception One:** To create a Citizens' Advisory Council that would mirror or be similar in nature to the Southeast Arizona Transmission Study (SATS) group referenced in the BTA to work on regional and transmission planning with the Companies.

**6. Purpose of Exception One.** The avoidance of piecemeal planning with the public and impacted Communities as currently exists. To save time and costs at Line Site hearings by ensuring that accurate information is provided to the public during construction of this line and further projects associated with the Vail Substation. To assure that the Companies follow the directives of the Commission to perform aggressive and upfront outreach to impacted Communities. To avoid blind sighting communities about future planned projects at the hearings themselves. This has now happened in two consecutive line site cases in our Community.

### **7. Proposed Changes to the CEC**

a. After the last condition in the current CEC, add the number twenty six (26) followed by text or similar which reads "Applicant will create a Citizens Advisory Council to assist in neighborhood and regional transmission planning related to this project. After determining the composition, meeting schedule of the group, notice shall be docketed and sent to all parties and members of the public who made comment on this project. If any chose to disagree, public comment may be sent to the Commission within 30 days after receiving notice from the Applicant."

### **8. Areas of concern:**

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**b. Exception Two:** I am in support of Marshall Magruder's Exception 2, although the following language should be added to assure those most visibly impacted are contacted and have the opportunity to comment:

1. Proposed addition to Marshall Magruder's Exception 2

On page 10 at line 222, changed impacted to read "impacted, and all the landowners within 500 feet of the centerline and *those who have made public comment*"

**9. Areas of concern:**

**c. Exception Three:** as shown in Exhibit EW- 19 E, the last project in our area has signs that are not visible from a moving car and look very similar to Arizona Land Signs.

2. Proposed language: Condition #10 line 1, replace "Normal Roadway Sign" with "a sign of a minimum size of 3'X 4'"

**10. Areas of concern:**

**d. Exception Four:** This area, to include the previously built section in Segment 1B, is rich in cultural and archeological history. Pima County commented that "*Aside from surveys associated with the I-19 Corridor, little previous survey has been done in the vicinity of the alignment in Santa Cruz County.*" ...*These data combine to indicated that the UNS Electric Inc. Vail to Valencia 115 kV Upgrade Project has an excellent potential to impact known and as yet unknown cultural and historic resources*" (UNS-1 Application J-1 Federal, State and Local Agency Notification Letter and Responses-Pima County)

3. Proposed or similar language: Condition 13, line 13 at the end of the paragraph. An independent Archaeologist will conduct a pre-construction survey and be on call"

**11. Areas of concern**

**e. Exception Five:**

Member Mundell offered me an opportunity to ask for the addition of a local quasi -governmental organization to the CEC notification. Unfortunately I was not prepared for this question and did not answer appropriately as our area does not have one specific organization. I have since thought of a few.

4. Proposed language: Condition 16, line 5 at the end of the paragraph, add Santa Rita Foothills Community Association, Hilton Road Community Association and The Vail Preservation Society.

Thank you!